LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7553 | **NOTE PREPARED:** Apr 21, 2011
BILL NUMBER: HB 1001 | **BILL AMENDED:** Apr 20, 2011

SUBJECT: Budget Bill.

FIRST AUTHOR: Rep. Espich | **BILL STATUS:** As Passed Senate
FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: X **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
X **FEDERAL**

Summary of Legislation: (Amended) This bill does the following.

State Appropriations- The bill appropriates money for capital expenditures, the operation of the state, the delivery of Medicaid and other services, and various other distributions and purposes.

Mandatory Reversions- The bill provides that the Budget Agency shall require reversions of $30 M to be made from state General Fund appropriations in each year of the biennium.

K-12 Education

School Formula- The bill provides a state tuition support funding formula.

Charter Schools- This bill provides that beginning with the 2011-2012 school year, a virtual charter school may apply for sponsorship with any statewide sponsor in accordance with the sponsor's guidelines. It specifies the amount that a virtual charter school is entitled to receive in state funding.

The bill also provides for a New Charter School Startup Grant for charter schools that initially are established and begin enrolling eligible pupils after June 30, 2011.

Schools for the Deaf and the Blind and Visually Impaired- The bill provides that a teacher at the Indiana School for the Deaf or the Indiana School for the Blind and Visually Impaired accrues vacation leave and holidays in accordance with the vacation leave and holiday policy of the largest school corporation in the county in which the school is located.

School Capital Projects Funds- The bill provides that a certain amount of the school capital projects fund may be used for utilities and insurance in calendar year 2011, 2012, and 2013.

School Debt Service Funds- The bill provides an exception until July 1, 2013, for a part of a school corporation's debt service fund levy (but not more than the amount of revenue loss to the school corporation from the circuit breaker credit) to be transferred to the capital projects fund, transportation fund, or school bus replacement fund if: (1) a school corporation has a fiscal impact from circuit breaker credits for all funds, except the general fund, that is in excess of 30% of the corporation's combined levy for all funds not used for debt service, except the general fund and issues refunding bonds that result in a positive incremental difference in annual debt service.

Textbooks and Other Curricular Material- The bill makes changes to the provisions included in HB 1429 concerning textbooks and other curricular material.

Turnaround Academies- The bill provides that a school that remains in the lowest performance category for a fifth year becomes a turnaround academy. It requires the State Board of Education to set specific goals for a turnaround academy, and allows the turnaround academy to be operated by a special management team.

Graduation Examinations- Requires the State Superintendent of Education to develop an ISTEP program testing schedule in which each student in Grade 10 or Grade 11 must take a graduation examination.

Miscellaneous K-12 Provisions- The bill extends the deferral of payment of principal and interest by the Brown County School Corporation on a loan from the Rainy Day Fund.

The bill changes the effective date of provisions added in HEA 1341 (concerning special education grants). The bill also makes other changes to the provisions added in HEA 1341.

The bill amends certain provisions included in SB 575-2011. It also sets forth certain deadlines related to teacher collective bargaining, factfinding, and mediation. The bill also deletes the changes made by SB 575-2011 to the statute allowing school capital projects funds to be used to pay for services of certain school corporation employees.

Higher Education

Scholarship Grants and Awards Programs- The bill allows money to be transferred from the Freedom of Choice Grant Fund to the Higher Education Award Fund. The bill requires a postsecondary educational institution that enrolls a student who receives any state assistance or loan to provide student data requested by the Commission on Higher Education (CHE). The bill also requires the Budget Agency to calculate the annual, projected growth in appropriated dollars for certain award and scholarship programs for state fiscal years 2013 through 2031.

This bill specifies that the requirement that the Commission for Higher Education review of a project approved or authorized by the General Assembly must occur within 90 days after the project is submitted for review does not apply to a project approved or authorized by the General Assembly for which a state appropriation will be used. The bill permits the CHE to set the student fee schedule for priority dual enrollment courses.

The bill also provides a Mitch Daniels Early Graduation Scholarship to a student who graduates from high school before Grade 12. It provides that the amount of the scholarship is $4,000. It also requires the State Board of Education to amend its rules to facilitate graduation from high school in less than seven semesters and allows a student to participate in an early college, a dual credit, or a dual enrollment program during any grade in high school.

The bill requires the Department of Education to transfer tuition support to SSACI for scholarship students that are accepted at a higher education institution. The bill provides that a state higher educational institution may not set tuition and fees until after the Commission for Higher Education has established the recommended tuition and mandatory fee increase targets.

The bill requires the CHE to study the repair and rehabilitation funding formula being used for the 2011-2013 biennium and Ivy Tech Community College's plan to accommodate growth in enrollment and submit a written report of its findings and any recommendations to the State Budget Committee.

Various Tax Provisions

Internal Revenue Code Update- This bill updates references to the Internal Revenue Code (IRC). The bill provides that amendments made to the federal earned income tax credit under the Federal 2010 Tax Relief Act are not included in the calculation of the Indiana earned income tax credit. The bill excludes certain changes made to the IRC under the Tax Relief Act and the Small Business Jobs Act of 2010 that affect the calculation of adjusted gross income. It also provides that certain amendments made to the IRC are excluded from Indiana's definition of the IRC.

Cigarette Tax Revenues- The bill changes the percentage of the revenues collected from cigarette taxes that must be deposited in the State Retiree Health Benefit Trust Fund.

Sales and Use Tax Provisions- The bill provides that if the Budget Agency certifies to the Budget Committee: (1) that provisions implementing the Streamlined Sales and Use Tax Agreement have been enacted into law by the United States Congress; and (2) that there is an excess in use tax collections on remote sales; the excess amount is appropriated from the state General Fund for Children of Veterans' Awards.

The bill also provides for a sales tax exemption for the Council of State Governments' Midwestern Legislative Conference.

Revenue Surplus- The bill provides for the transfer of the part of the state's year-end general revenue surplus above 12% of appropriations to the Pension Stabilization Fund.

Department of State Revenue Administration- The bill requires the Department of State Revenue to publish on its web site the information needed to communicate a person's obligation to remit use tax. The bill also provides that a professional preparer that files more than 50 returns in 2012 and more than 10 returns in a calendar year after 2012 for individuals must file the returns electronically in the immediately following calendar year.

Horse Racing and Gaming Provisions

Horse Racing Provisions- This bill permits the Horse Racing Commission to use up to 2% of Breed Development Fund revenue for operating and administrative costs. The bill provides that from funds used to promote standardbred horses and horse racing that $750,000 goes to the State Fair Commission to support standardbred racing and facilities at the state fairgrounds and $250,000 goes to the State Fair Commission to make grants to county fairs to support standardbred racing and facilities at county fair tracks.

Slot Machine Wagering Tax- The bill provides that the graduated slot machine wagering tax applies to 99% of the adjusted gross receipts received beginning July 1, 2012.

West Baden Springs Historic Hotel- This bill provides that the statute concerning review by the Historic Preservation Review Board does not apply to certain projects or claims paid from the West Baden Springs Historic Hotel Preservation and Maintenance Fund.

Salaries and Personnel

Legislative and Judicial Salaries- The bill provides that the annual salary of the members of the General Assembly shall not be increased during FY 2012 or FY 2013, regardless of any changes to judges' salaries. The bill also provides that any salary increase that would otherwise occur in FY 2012 or FY 2013 under the statute providing for adjustment of judges' salaries shall not occur unless the increase for that state fiscal year is approved by the Chief Justice of the Supreme Court. (Under current law, the salaries of prosecutors are also determined by the amount of judges' salaries.)

State Personnel Department and the State Civil Service System- This bill establishes the State Personnel Department (SPD), which applies to employees of a governmental entity that exercises any of the executive powers of the state under the direction of the Governor or Lieutenant Governor, except for a body corporate and politic and the State Police. The bill requires the Governor to appoint a director who is responsible for administering the department.

The bill also establishes the State Civil Service System under which state employees are categorized according to two classifications of state employment: (1) classified service; and (2) unclassified service. The bill provides that an employee in the state classified service who successfully completes a working test period may be dismissed, demoted, or suspended only for just cause. The bill also establishes a process for an employee to file a complaint and appeal an adverse personnel decision. It also provides that an unclassified employee is an employee at will and serves at the pleasure of the employee's appointing authority. The bill requires the director to establish and maintain a classification and pay plan for the system.

This bill also requires the director, in cooperation with appointing authorities, to establish and amend standards of performance and expected outcomes for employees and a system of service ratings based on the standards. It requires each appointing authority to make, at least annually, service ratings for the employees in the authority's division of the system. It also provides that the state shall not recognize, bargain collectively with, enter into a collectively bargained agreement with, or require an employee to join or financially support an employee organization. It also provides that a contract or any other form of agreement resulting from negotiations between the state and an employee organization is illegal, unenforceable, void, and of no effect.

This bill provides that a state employee is entitled to be a member of or otherwise associate with an employee organization, consult with others for the common good of employees, financially support an employee organization, and petition for the redress of grievances in a manner that does not interfere with the performance of the duties of the employee or of another employee or adversely affect the conduct of state business. It also provides that a state employee shall not strike. The bill provides that a person who violates the provisions concerning employee organizations commits a Class C infraction. It also specifies that a court may assess damages against a person who violates these provisions, in addition to any civil penalties that are imposed. The bill repeals provisions establishing the State Personnel Advisory Board, the State Personnel Department, the State Merit System, the Career Bipartisan Personnel System, and the Merit System for Engineers.

Retirement Medical Benefits and Self-Insurance- This bill makes changes to the retirement medical benefits for conservation officers, employees of the State Excise Police, and employees of the State Police Department (other than an employee of the State Police Department who waives coverage under a common and unified plan of self-insurance before July 1, 2011). The bill deletes the provision authorizing plans of self-insurance to be established by the Indiana Gaming Commission for gaming agents and gaming control officers.

Leave Conversion Pilot Program- The bill authorizes the legislative branch and the supreme court for the judicial branch to reestablish a leave conversion pilot program. It provides that the program expires June 30, 2013.

Thirteenth Checks- The bill provides for a thirteenth check to retired or disabled members of the Public Employees' Retirement Fund (PERF) and the Indiana State Teachers' Retirement Fund (TRF).

Quorum Breaking- The bill also provides that a member of the General Assembly who, with the intent to defeat, delay, or obstruct legislative action, is absent from the member's chamber with the result that the member's body is unable to form a quorum, commits the act of legislative bolting and is liable for a civil penalty. It specifies that, except during the final week of the legislative session or during a special session, this provision does not apply to an absence of fewer than three consecutive session days, regardless of the reason for the absence.

Social Services

Family and Social Services (FSSA) Provisions- This bill authorizes FSSA to apply during the 2011 or 2012 General Assembly interim for: (1) a Medicaid waiver if the waiver is relating to the federal Patient Protection and Affordable Care Act (ACA); and (2) a Medicaid block grant for the administration of the Medicaid program; if certain conditions are met. The bill also repeals the following: (1) Statutes prohibiting the Medicaid program and the CHIP program from limiting the number of brand name drugs. (2) The Family and Social Services Committee. (3) Provisions requiring the Division of Aging to adopt rules concerning reimbursement to residential care assistance facilities and to annually review the reimbursement rate. (4) Provisions requiring each residential care facility to annually file an operations cost report, requiring the division to review the facility operations cost reports, and requiring the division to submit an annual report to the Budget Agency concerning possible modification of a facility's reimbursement rate based on the facility's operations cost report.

Division of Disability and Rehabilitative Services Provisions (DDRS)- The bill changes the definition of "developmental disabilities" to conform to the federal definition. It repeals the Community Residential

Council and gives the duties of the council to DDRS.

The bill changes the following concerning the First Steps program: (1) the third-party payor requirements; (2) the copayment structure and amounts; and (3) allows DDRS to require a copayment for only one child per family during a billing period. This bill also requires certain reports to the DDRS Advisory Council.

The bill eliminates priority criteria for formal categories for developmental disability waiver slots. The bill also requires the Office of Medicaid Policy and Planning (OMPP) to apply for federal approval to amend a Medicaid waiver to set an emergency placement priority for certain individuals. The bill allows OMPP to adopt emergency rules under additional circumstances.

Medicaid Provisions- This bill removes language setting forth requirements for determining the medical assistance rate to be paid on behalf of a resident of a county home and language that required the adoption of rules on reimbursement and an annual review of the medical assistance rate. The bill removes a requirement for the establishment of an administrative appeal procedure for a residential care provider that disagrees with the provider's calculated reimbursement rate. The bill eliminates OMPP’s ability to disregard certain contributions and allows OMPP to implement certain optional federal provisions. The bill specifies age requirements for certain optional Medicaid services and limits certain services for Medicaid recipients.

This bill prohibits OMPP from reimbursing nursing facilities for reserving a bed for certain Medicaid recipients.

The bill requires OMPP to calculate the federal cost effectiveness of a waiver applicant's or a waiver recipient's participation in the developmental disabilities Medicaid waiver. It also provides that OMPP may apply for an amendment to certain Medicaid waivers to allow OMPP to count a dependent waiver applicant's parental income in determining eligibility.

The bill amends probate law concerning the sale of real estate to satisfy certain claims by OMPP.

This bill requires and sets forth the procedure for an institutional provider and a noninstitutional provider to reimburse FSSA for, or appeal a determination of, certain Medicaid overpayments made to the provider. It changes the timeframe that a provider has to repay an overpayment from 60 days to 300 days. The bill also extends: (1) the collection of a nursing facility quality assessment fee with changes to the amount collected and the amount and to whom the dollars are dispersed; and (2) a moratorium on the certification of new or converted comprehensive care beds for participation in the state Medicaid program; until June 30, 2014.

This bill also creates a certificate of need for a comprehensive care bed license that allows the State Department of Health to grant a license for a bed only if the county in which the beds are to be located has an occupancy rate of at least 90%.

Hospital Assessment Fee- The bill authorizes OMPP to collect a hospital assessment fee from certain hospitals until June 30, 2013, if certain conditions are met. It establishes the Hospital Medicaid Fee Fund for purposes of collection and distribution of the hospital assessment fee. It also sets forth certain exemptions from the certificate of need.

The bill provides that the restriction on drugs that may be implemented by OMPP may include the implementation of certain policies.

ISDH and Pulse Oximetry Screening- This bill requires that, beginning January 1, 2012, infants must be given a pulse oximetry screening examination to detect for low oxygen levels. The bill requires the State Department of Health to: (1) develop procedures and protocols for the testing; and (2) report to the Legislative Council not later than October 31, 2011.

ICHIA Premium Rates- This bill sets the Indiana Comprehensive Health Insurance Association (ICHIA) premium rates at 150% of the average rate of the five largest commercial carriers. It revises the eligibility requirements for an ICHIA policy to require applicants to first apply for the federal pre-existing condition insurance plan and the Healthy Indiana Program (HIP).

<u>Miscellaneous State Provisions</u>

Bonding Requirements- The bill specifies conditions for approval of the use of a state reserve fund by the budget director as part of a financing. The bill also provides that debt issued by a local port authority may not have a maturity longer than 25 years.

Lobbyist Reporting- The bill defines "reporting year" for purposes of the statutes concerning lobbyist reporting.

Tobacco Use Prevention and Cessation Executive Board- The bill abolishes the Indiana Tobacco Use Prevention and Cessation executive board on July 1, 2011, and transfers all assets, obligations, powers, duties, and appropriations to the State Department of Health (ISDH). The bill repeals statutes governing the executive board.

GPS Tracking- This bill provides that GPS tracking of individuals as a condition of parole is subject to the amount appropriated to the Department of Correction (DOC) for its monitoring program.

Petition and Remonstrance Provision- This bill specifies that a person or an organization that has a contract or arrangement with a school corporation to provide goods or services to the school corporation may not spend any money to promote a position on a school petition and remonstrance or local public question.

Removal of a Public Officer- The bill repeals provisions concerning the removal of a public officer after a hearing.

Study Topics- This bill requires the Indiana Criminal Justice Institute to study certain topics and report to the Budget Committee. The bill also requires the Budget Agency to study law enforcement training academies. It also requires the Commission on State Tax and Financing Policy to study issues related to transit funding. The bill also establishes the Interim Study Committee on Employment Issues.

E-Verify Provisions- The bill provides that (with certain exceptions), a state agency or political subdivision shall use the E-Verify program to verify the work eligibility status of all employees of the state agency or political subdivision hired after June 30, 2011. It adds provisions concerning the use of the E-Verify program under public contracts and grants by state agencies and political subdivisions.

Courts

Automated Record Keeping Fee- The bill provides that in all civil, criminal, infraction, and ordinance violation actions, the automated record keeping fee is $7 before July 1, 2013, and $4 after June 30, 2013. The bill provides that a county not operating under the state's automated judicial system is to retain 14.3% of the automated record keeping fee.

Public Defense Administration Fee- The bill also provides that in all civil actions, the public defense administration fee is $3 before July 1, 2011, and $5 after June 30, 2011, and increases the semiannual deposit into the Public Defense Fund from $2.7 M to $3.7 M beginning July 1, 2011.

Probation Services Funds- The bill authorizes (rather than requires) a county fiscal body to appropriate money from the county supplemental juvenile probation services fund. It also authorizes (rather than requires) a county or municipal fiscal body to appropriate money from a supplemental adult probation services fund.

Deferral and Pretrial Diversion Programs- The bill provides that funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds.

Guardianship Provisions- The bill permits the Department of Child Services (DCS) to establish a kinship guardianship assistance program.

The bill provides that a probate or juvenile court may include certain conditions in its order creating a guardianship of a minor. It also adds provisions concerning the jurisdiction of the probate court and juvenile court regarding certain guardianships of a child.

Judicial Technology and Automation Project- The bill provides that the State Budget Committee may release funds for the Judicial Technology and Automation Project after the Division of State Court Administration certifies that the project is in compliance with certain information sharing and exchange provisions.

Local Taxes

Supplemental Distributions- This bill provides that the amount of a supplemental distribution made to a county from its county adjusted gross income tax (CAGIT), county option income tax (COIT), or county economic development income tax (CEDIT) account is based on a 150% excess. The bill requires the Budget Agency to make estimates of the statewide total amount of CAGIT, COIT, and CEDIT certified distributions. The bill also specifies that the part of a supplemental distribution that is attributable to an additional rate authorized under CAGIT, COIT, or CEDIT shall be used for its dedicated purpose and is not required to be deposited in the unit's rainy day fund.

Allen County Supplemental Food and Beverage Tax- The bill provides that the Allen County Supplemental Food and Beverage Tax terminates two years after the retirement of debt that was incurred by the Allen County-Fort Wayne Capital Improvement Board of Managers. The bill provides that revenue exceeding that needed to pay obligations may be used by the board to provide funding and financing for certain capital projects that could be paid for with CEDIT revenue. It permits the board to use $100,000 annually to pay expenses related to such a capital project. The bill also prohibits the board from using the excess revenue to provide for debt service or lease payments for a project for which the obligations for the project were incurred before January 1, 2009. It also provides that one of the two board members appointed by the city executive must be engaged in the hospitality industry (rather than the hotel or motel business) in the city.

Marion County Property Tax- The bill allows Marion County to impose a property tax levy in 2012 to offset a 2008 deficiency for family and children expenses paid by the county after the elimination of the Family and Children's Fund.

Allen and Tippecanoe County Township Maximum Levy Adjustments- The bill permits Washington Township and Lafayette Township in Allen County to obtain an adjustment to the maximum permissible property tax levy for 2012 to offset the use of cash balances in any prior year. The bill also provides that Fairfield Township in Tippecanoe County may receive an adjustment to the township's maximum permissible property tax levy for four years in an amount not exceed $130,000 for each year.

Effective Date: Upon passage; June 30, 2010 (retroactive); January 1, 2011 (retroactive); June 1, 2011; July 1, 2011; January 1, 2012; January 1, 2013.

Explanation of State Expenditures: The bill has the following state expenditure impacts.

State Appropriations: The following summary is for state appropriations during FY 2012 and FY 2013.

Appropriations by Function (SECTION 1-35)	FY 2012 **	FY 2013 **
General Government	$558,012,584	$611,866,482
Corrections	669,417,203	677,213,200
Other Public Safety	97,712,857	97,784,763
Conservation and Environment	73,239,701	73,239,701
Economic Development	51,690,413	61,690,413
Transportation	0	0
Mental Health	245,563,984	245,563,984
Public Health	30,332,681	30,332,681
Medicaid	1,847,603,064	2,012,603,064
Family and Children	175,108,656	176,184,123
Social Services and Veterans	775,570,795	780,282,833
Higher Education	1,677,696,961	1,695,050,718
Education Administration	15,051,831	15,051,831
Tuition Support - GF	6,263,200,000	6,309,100,000
Social Security - Teachers	2,403,792	2,403,792
Teacher's Retirement - GF	725,400,000	747,200,000
Other Local Schools	270,940,364	270,940,364
Other Education	9,188,753	9,188,753
Distributions *	161,500,000	161,500,000
Total Operating	**$13,649,633,639**	**$13,977,196,702**
Construction - Higher Ed	$23,161,773	$28,416,065
Construction - Other	269,629,355	261,418,730
Total Construction	$292,791,128	$289,834,795
Total GF (Operating + Construction)	**$13,942,424,767**	**$14,267,031,497**
BIF	$13,701,889	$13,701,889
Other Dedicated - Operating	1,842,677,894	1,379,607,806
Other Dedicated - Construction	38,673,677	37,308,204
Tobacco Settlement	129,143,110	129,143,110
Federal	916,130,000	971,070,000
Total (Dedicated and Federal)	**$2,940,326,570**	**$2,530,831,009**
Total - All	**$16,882,751,337**	**$16,797,862,506**

* Distributions total does not include $8.1 M in each year of the biennium for the Alcoholic Beverage Commission Gallonage Tax, which is in current statute but is not in this bill.
** Biennial appropriations are distributed in each fiscal year based on the timing of expenditures anticipated by the State Budget Agency.

Source: State Budget Agency

K-12 Education

School Formula- The bill specifies the school formula for CY 2012 and CY 2013. The bill makes the following modifications from the 2011 school formula for 2012 and 2013.

1. *Foundation Grant*: The bill decreases the foundation grant from $4,505 in CY 2011 to $4,290 in CY2012 and $4,415 in CY 2013. The free or reduced lunch percentage used in the formula is updated to the 2011 school year's percentage of students eligible for free or reduced lunch. The free and reduced lunch funding level in the complexity index is reduced from $2,241 for CY 2011 to $2,134 in CY 2012 and $2,196 in CY 2013.

2. *Complexity Index*: The bill changes the adjustment to the complexity index for a complex school corporation (i.e., a corporation with more than 50% of its students eligible for free or reduced lunch). The base index number used to compute this adjustment is increased from 1.25 in CY 2011 to 1.28 in CY 2012 and 1.31 in CY 2103. The difference between the initial index and 1.28 in CY 2012 (1.31 in CY 2013) would still be added to the initial index.

3. *Adjusted ADM:* The bill does not use the 3-year average in the calculation of the adjusted ADM. In CY 2011, the adjusted ADM was the greater of a school's 3-year average ADM or the current year's ADM. The adjusted ADM for a school corporation in CY 2012 and CY 2013 would be the current year's ADM.

4. *Small School and Restore Grants*: These grants have been eliminated.

5. Transition-to-Foundation: The bill continues the transition-to-foundation concept in the current school formula, but the computation has been changed. In CY 2011, this amount was computed by comparing the current year's target revenue to the previous year revenue foundation amount. The previous year revenue foundation amount was adjusted upwards by a minimum of $50 or downwards by a minimum of $150, depending on the difference (divided by 8) between the target revenue and the previous year revenue foundation amount. This bill makes the following changes while keeping the basic concept in place:

a. The current year's target revenue is increased based on the ADM of the school corporation. It is increased by $100 per student if the ADM is between 500 and 1,000 students. Corporations with an ADM count below 500 would get no increase; for those whose ADM is above 1,000, the increase per student would be prorated so that the total increase is no more than $100,000.

b. If the previous year revenue foundation is greater than 20% above the target revenue (increased by the ADM adjustment), it is reduced to be 20% above the adjusted target revenue.

c. At this point the computation is the same as for CY 2011 except that the difference is divided by 7 in CY 2012 and 6 in CY 2013. Additionally, corporations that are below foundation are taken immediately to foundation; if the corporation is above foundation, the decrease would be the difference divided by 7 (in CY 2012) or 6 (in CY 2013).

6. *Corporations with ADM less than 100*: In CY 2011, the computation of regular program revenue for schools is the transition-to-foundation grant multiplied by the adjusted ADM; however if the ADM of the corporation is less than 100, the current ADM is used instead of adjusted ADM. Under this bill for CY 2012 and CY 2013, the adjusted ADM is the same as the current ADM, so this particular computation is no

longer needed.

7. *Prime Time Grant:* The bill phases out the minimum guarantee over two years. In CY 2012, the guarantee would be reduced by 50%; in CY 2013, it would be set at $0. Additionally, in determining the applicable pupil/teacher ratio, the upper limit of the complexity index is increased from 1.2 to 1.3 (the lower limit would remain at 1.1).

8. *Academic Honors:* The bill extends the Honors Grant program to include students who successfully complete a Core 40 diploma with technical honors.

The following shows the CY 2012-2013 school formula estimates.

	CY 2011	CY 2012	% Diff	CY 2013	% Diff
State Regular	5,655,019,503	5,536,166,115	-2.1%	5,601,053,345	1.2%
Special Education	503,456,723	505,824,343	0.5%	508,384,729	0.5%
Career & Technical	96,474,400	99,160,615	2.8%	102,419,375	3.3%
Prime Time	127,403,888	120,414,465	-5.5%	111,885,099	-7.1%
Honors	16,127,100	16,253,046	0.8%	15,828,975	-2.6%
Restoration 2009	160,111,951	-	-	-	-
Small School	16,417,623	-	-	-	-
Reduction	327,304,225	-	-	-	-
Total	6,247,706,963	6,277,818,584	0.5%	6,339,571,523	1.0%

Tuition Support Special Distribution: The bill provides a special distribution of tuition support to local schools of the savings in tuition support from the Choice Scholarship Program. A student eligible for free or reduced lunch is eligible for a scholarship of 90% of the tuition support per student where the student attended the prior year. The scholarship decreases to 50% if the income of the parent is up to 150% of the amount to qualify for free or reduced lunch. The amount of tuition support that might be distributed to local schools based on each 1,000 students that receive a scholarship is about $1 M. The distribution to local schools would depend on the school corporation's percentage of the total tuition support.

Charter Schools-

Virtual Charters: The bill changes the current virtual charter school formula from 80% of the statewide average basic tuition support to 85% of the state foundation amount times the virtual charter school's complexity index. Virtual charter schools would also be eligible to receive special education funding in the school formula.

There is currently a 500-student enrollment limit for virtual charter schools in 2011. However, this bill eliminates the cap on the number of students that may be enrolled in a virtual charter for years beginning in 2012. The impact of changing the 80% of the state average to 85% of the school's foundation amount plus special education grant would increase virtual school revenue by about $442,300 for CY 2012 and $531,300 for CY 2013. The impact on future school formulas would depend on whether the increase caused the school formula to exceed the calendar year maximum. The net costs could be reduced, since 60% of new students in the virtual charter school have to have been included in the school formula ADM of some public school the previous year.

New Charter School Startup Grant: This grant is equal to one-third of the school's tuition support of the following school year. The amount of the grant is projected to be $4.9 M in both 2012 and 2013. The grant is to be paid from the Charter School Facilities Assistance Fund.

Schools for the Deaf and the Blind and Visually Impaired- Under current law, both the Indiana School for the Deaf and the Indiana School for the Blind and Visually Impaired are state merit agencies. Teachers are subject to a salary schedule, using a daily rate of pay for each teacher that is equal to that of the Indianapolis Public Schools (IPS) (i.e., the largest school corporation in the county in which the schools are located). However, the vacation schedule for teachers is governed by state personnel rules, with the exception that they do not accrue vacation time during the summer months when school is not in session.

Under this bill, the vacation schedule of the employees at the two schools would no longer be governed by the state personnel rules, but would be the same as IPS policies. Teachers in IPS are on 10-month contracts with no vacation time. Administrators have a choice of an 11-month contract with 120 hours of vacation or 12-month contracts with 160 hours of vacation. The two schools are expected to save approximately $150,000 annually under this provision

Turnaround Academies- The bill would create a turnaround academy for a school that remains in either of the two lowest performance categories for a fifth year, or in certain circumstances after a third or fourth year. The academy could contract with a school corporation for goods or services. If the State Board of Education uses a special management team, then the team can use the school building. The school corporation is responsible for maintaining the school building and transporting the students to the turnaround school. The special management team would not be subject to the state collective bargaining law.

The turnaround students are counted in the tuition support formula of their legal settlement. The Department of Education is allowed to deduct from the school corporation a portion of their tuition support to cover the cost of operating the academy. The maximum amount that can be used is the total per student funding for the affected students.

Higher Education

Scholarship Grants and Awards Programs-

Mitch Daniels Early Graduation Scholarships: The bill provides a $4,000 Mitch Daniels Early Graduation Scholarship for each high school student who graduates a year early. The student would have to complete the necessary courses by Grade 11, apply for the grant, and enroll in an approved postsecondary education institution. The impact would depend on the number of students who might choose to graduate early. The state tuition support distributions to local schools would be reduced by the amount of the scholarships granted in each year.

There would be a reduction in tuition support for the schools where the Mitch Daniels Early Graduation Scholarship recipient graduated in the following school year. The reduction in state tuition support would equal the additional funding the school receives from counting the student in the current ADM in the last year the student attended the school. The possible saving from not attending senior year would vary between $600 to $3,000 depending on the school corporation where the student resides. The median saving is about $1,490 per student (the average tuition support of $5,490 minus the $4,000 scholarship).

During the 2009-2010 school year, there were about 77,900 11th grade students and 73,000 12th grade students. There are about 4,200 to 5,500 11th graders who do not become 12th grade students for each age cohort.

For each 300 students that graduated early (about 0.4% of 11th grade students) and received a scholarship, the cost of the scholarships is $1.2 M ($4,000 X 300) and the total reduction in tuition support to local schools would be $1.7 M, resulting in a net savings in tuition support of about $0.5 M.

SSACI Transfers: The bill would allow the State Student Assistance Commission to transfer money from the Freedom of Choice Grant Fund to the Higher Education Award Fund after the commitments of the Freedom of Choice Grant have been met. The Freedom of Choice Awards totaled about $43.7 M in FY 2007 and increased to $52.5 M in FY 2009, and the Higher Education Awards were about $119.6 M in FY 2007 and increased to $144.4 M in FY 2009. The bill would allow greater flexibility in the use of scholarship funding. Currently, the transfer can only be made from the Higher Education Award Fund to the Freedom of Choice Grant Fund.

Priority Dual Credit Courses: The Commission for Higher Education would be able to identify a set of courses offered by high schools and that receive postsecondary credit and state funding as priority dual credit courses. The Commission would also set the tuition and fees that could be charged for the courses. There should be no fiscal impact to the Commission. The impact on state educational institutions would depend on the rate set by the Commission. [The tuition charged by universities for other students for dual credit courses varies from $0 to $89 per credit hour. The cost is below the tuition charged for a full-tuition student, which ranges from $132 to $263 per credit hour.]

University Drug Purchasing: The bill would require state education institutions to participate in the state aggregate prescription drug purchasing program unless the Budget Agency determines participation would not result in a savings. Currently, state education institutions may choose to participate, but are not required to participate. Three state educational institutions currently participate in the program and four do not.

Various Tax Provisions

Internal Revenue Code Update- The Department of State Revenue (DOR) will incur additional expenses to revise instructions and computer programs, and create separate EITC tables to reflect the addback and recomputation provisions in the bill for purposes of decoupling from federal tax law provisions.

Revenue Surplus- Pension Stabilization Fund Transfers: This bill allows the transfer to the Pension Stabilization Fund of certain surplus funds from the General Revenue Fund (defined as the Counter-cyclical Revenue and Economic Stabilization Fund, the state General Fund, including the Medicaid contingency and reserve account, and the State Tuition Reserve Fund). Whenever the balance of the General Revenue Fund at the end of a fiscal year exceeds 12% of the appropriation to that fund for the current fiscal year, the amounts in excess of 12% will be transferred to the Pension Stabilization Fund. Any such transfer will result in an increase to the balance of the Pension Stabilization Fund and a corresponding decrease to the General Revenue Fund.

(Revised) *DOR Administration:* The bill makes two changes relating to DOR administrative procedures.

(1) The bill reduces the return filing threshold that determines whether a professional tax preparer must file

tax returns with the DOR in an electronic format. Current statute provides that professional tax preparers that file more than 100 returns in a calendar year must file the returns in electronic format. The bill reduces the threshold to 50 returns in CY 2012, and 10 returns beginning in CY 2013. This change will result in administrative cost savings to the DOR, with the total savings dependent on the number of returns that are filed electronically in lieu of paper filings due to the bill. The DOR reports that it costs $0.08 to process an individual income tax return filed electronically versus $2 to $3 for an individual income tax return filed in paper form.

(2) The bill requires the DOR to publish on DOR's web site the information needed to communicate a person's obligation to remit use tax on the exercise of any right or power of ownership over tangible personal property in Indiana for which sales tax has not been paid, including purchases using the Internet or a catalog. The DOR will be able to implement this requirement within existing resources.

Horse Racing and Gaming Provisions

Indiana Horse Racing Commission (IHRC)- The bill permits the IHRC to pay from one or more of the breed development funds the operating and administrative cost of the breed development programs beginning in FY 2012. The bill limits the amount that the IHRC annually may pay from the breed development funds for these purposes to 2% of the amount distributed to the breed development funds during the immediately preceding state fiscal year from slot machine adjusted gross receipts (AGR) generated at the racinos. Currently, there are three breed development funds - Thoroughbred, Standardbred, and Quarter Horse. In FY 2010, the distributions from slot machine AGR to the three breed development funds totaled $24.35 M. It is estimated that the distributions could total $24.6 M in FY 2011 and $24.9 M in FY 2012. Based on these estimates, the maximum amount the IHRC could use to operate and administer the breed development programs would be about $500,000 annually in FY 2012 and FY 2013.

Slot Machine Wagering Tax- The bill requires the following annual distributions to the State Fair Commission beginning in FY 2012 from the racino slot machine AGR that is annually distributed to standardbred purposes: (1) $750,000 to support standardbred racing and facilities at the state fairgrounds; and (2) $250,000 for grants to support standardbred racing and facilities at county fair tracks. Current statute distributes 15% of racino slot machine AGR to various horse racing purposes and the state General Fund, with 97% of the total distribution to horse racing purposes going to purses, breed development, and horsemen's associations. Of the 97% distribution, 46% is distributed to standardbred purses, breed development, and horsemen's associations. It is estimated that the distribution to standardbred purposes will total about $26.2 M in FY 2012 and $24.7 M in FY 2013. The additional distributions required by the bill would come from these totals.

Salaries and Personnel

Legislative and Judicial Salaries- Salaries of Judicial Officers – Under current law, the salaries of judicial officers (including justices, judges on the court of appeal, trial court judges, magistrates, prosecuting attorneys, and deputy prosecuting attorneys) are increased by either adjusting the specified salary in statute or, as determined by the budget director, based on the salary changes of state employees in the state executive branch in a similar salary bracket. As proposed, the salary increases for these judicial officers would have to be approved effective either July 1, 2011, or July 1, 2012, by the Chief Justice of the Indiana Supreme Court for these increases to take effect. There would be 644 court officers including prosecuting attorneys who would be affected by this provision. Depending on the decision of the Chief Justice, a 1.3% salary adjustment (an amount provided to state employees effective January 1, 2011) would be equivalent to $1.08 M in FY 2012 and FY 2013.

This bill would also freeze legislative salaries for FY 2012 and FY 2013. Savings from forgoing a 1.3% increase would be approximately $174,100 annually. Savings could increase from both of these provisions if state employees were to receive subsequent salary increases in FY 2012 or FY 2013.

State Personnel Department and the State Civil Service System- This bill establishes the State Civil Service System and the State Personnel Department. The bill also repeals the current State Merit System for employment, as well as other superseded statutes. The State Civil Service System incorporates many of the current provisions that are in practice under the State Merit System. The duties assigned to the State Personnel Department by this bill do not differ significantly from the current duties assigned to the State Personnel Department and its Director. Thus, any impact should be minimal.

Retirement Medical Benefits and Self-Insurance- The bill excludes the Excise Police, conservation enforcement officers, and State Police from participating in the retirement medical benefit plan.

The Budget Agency must transfer a specified amount to be used by the State Police, conservation officers, and the State Excise Police to reduce unfunded post-employment benefit liability and not to increase benefits or reduce premiums. Although the officers will no longer receive reimbursement from personal accounts for health insurance premiums upon retirement, they will have access to health insurance through their respective state agencies. Currently, premiums for a family plan for conservation officers aged 50 to 55 is $360 per month. For retirees 55 and over, the premium for a family plan is currently $280. The plan provides supplemental insurance for those on Medicare. It is anticipated that premiums will increase in the future due to increases in the costs of health care. These provisions should reduce expenditures and help toward reducing unfunded liability.

Leave Conversion Pilot Program- The bill authorizes the legislative branch and the judicial branch to reestablish a leave conversion pilot program through June 30, 2013. The impact will depend on legislative and judicial branch actions and appropriations.

(Revised) *Thirteenth Check Provisions*- For the Teachers' Retirement Fund, Pre-1996 Fund, there will be a one-time payment of $17.8 M in FY 2012. For the 1996 Fund, there will be a one-time payment in FY 2012 of $800,000.

For the Public Employees' Retirement Fund (PERF), the cost of providing a 13th check is shown in the table below.

13th Check	State
Change in Unfunded Accrued Liability	$8.8 M
Change in Annual Funding	$1.8 M
Change in Annual Funding as % of Pay	0.1%

The funded status for the combined state and local PERF funds would decrease from 85.12% to 84.99%.

The funds affected for the impact on annual funding are the state General Fund (55%), or $990,000, and various dedicated funds (45%), or $810,000

For the State Excise Police, Gaming Agent, Gaming Control Officers, and Conservation Enforcement Officers' Retirement Fund, there would be a one-time payment of $338,000.

<u>Social Services</u>

Family and Social Services (FSSA) Provisions-

Division of Mental Health and Addiction (DMHA) Staffing Requirements- The bill will remove provisions of current law that prohibit the Division of Mental Health and Addiction DMHA from reducing staffing and patient services below certain rates at the Evansville State Hospital and Evansville State Psychiatric Treatment Center for Children. These changes are expected to save between $600,000 and $2 M in state costs annually.

Repeal of Community Residential Council- The provisions of the bill that repeal the Community Residential Council and transfer the Council's duties to the DDRS is expected to save the state approximately $4,000 per year on Council expenditures.

Medicaid Home and Community-Based Services Waivers- The bill requires the FSSA to reduce the aggregate and per capita cost of the waivers by implementing certain changes to the program. FSSA reports this provision is expected to result in cost savings which are indeterminable at this time. However, as a result of decreasing program costs, FSSA anticipates enrolling more people in the program, resulting in no net fiscal impact to the state.

First Steps Program Changes- The bill removes the maximum monthly cost share for the First Steps Program. This change is estimated to save the state a maximum of approximately $1.2 M within the first year of implementation.

The bill also changes language regarding third-party liability (TPL) plans for the First Steps Program. FSSA reports these changes will dramatically decrease administrative time that is required to submit numerous requests for reimbursement to TPL payors. These provisions may also affect the state employee health plan and increase health plan costs. If this bill increases the total cost of the state employee health plan, it is not known how much of the cost increase will be borne by the state and how much will be borne by the health plan enrollees.

Medicaid Provisions- Quality Assessment Fee (QAF): This bill would authorize OMPP to apply to CMS for approval to increase the amount of the QAF to the maximum percentage allowed by federal law on July 1, 2011, and October 1, 2011, and extend the collection of the fee for three years - until June 30, 2014. Medicaid waiver and plan amendments are generally considered to be administrative in nature and achievable within the current level of resources available to the OMPP. OMPP will be required to revise the current assessment methodology and the distribution of the collections. Should federal financial participation become unavailable to provide for the additional reimbursement, the bill provides that OMPP is to cease to collect the QAF. The bill specifies that any increase in reimbursement due to maximizing the QAF is to be exclusively used for initiatives to promote and enhance improvements in quality of care for nursing facility residents.

The bill requires the following percentage distributions of the QAF collections for three years.

Designated Purpose	FY 2012	FY 2013	FY 2014
Nursing Facilities Services	67.1 %	66.5 %	70.6 %
Aged and Disabled Waiver Services	1.9 %	1.9 %	1.9 %
Other Medicaid Services	17.4 %	20.0 %	20.0 %
State Administration	4.5 %	7.5 %	7.5 %
To Pay Prior-Year Nursing Facility Expenditures	9.1 %	4.1 %	

If the maximized QAF results in annual collections of $153.2 M in FY 2012 and $156.2 M in FY 2013 and FY 2014, the amounts shown below would be available to leverage federal funds for the designated purposes.

Designated Purpose	FY 2012	FY 2013	FY 2014
Nursing Facilities Services	$ 102.8 M	$ 103.9 M	$110.3 M
Aged and Disabled Waiver Services	$ 2.9 M	$ 3.0 M	$ 3.0 M
Other Medicaid Services	$ 26.7 M	$ 31.2 M	$ 31.2 M
State Administration	$ 6.9 M	$ 11.7 M	$ 11.7 M
To Pay Prior-Year Nursing Facility Expenditures	$ 13.9 M	$ 6.4 M	
Total	**$ 153.2 M**	**$ 156.2 M**	**$ 156.2 M**

Collections of Medicaid Overpayments: The provisions affecting the collection of Medicaid overpayments should result in increased collections of amounts owed to the state and federal government. The fiscal impact would depend on the extent to which overpayments are made, identified, and subsequently collected. OMPP reported that the current hearing and appeal process can delay the collection of overpayments for years. OMPP has reported that the overpayment balance is in excess of $28 M and that the collection rate for all identified overpayments is less than 30%. Through the vehicle of the Quality Assessment Fee, the bill would provide $13.9 M in FY 2012, and $6.4 M in FY 2013 to address prior year nursing facility overpayments identified for recovery by the federal Centers for Medicare and Medicaid Services (CMS).

Nursing Facility Bed Certificate of Need/Medicaid Certification Moratorium: The bill further extends the existing moratorium on certification of new nursing facility beds for participation in the Medicaid program and establishes a certificate of need program on the construction and licensure of new or converted comprehensive care health facilities with some exceptions, until June 30, 2014.

The State Department of Health has reported in the past that extending the administration of a moratorium on the certification of new nursing facility beds would have a negligible fiscal impact. The ISDH would likely reject applications for Medicaid or Medicare certifications for affected facilities until the expiration of the moratorium on June 30, 2014. Since Medicaid allowable fixed cost is distributed on the basis of licensed bed capacity, a moratorium on the number of certified beds would be expected to result in minimal savings to the Medicaid program. This should continue to be the case until the demand for certified beds would increase towards the statewide cap of 95% occupancy. (Kaiser Foundation identified 2009 certified nursing facility occupancy in Indiana was 80.8% in 495 facilities.) To implement the Certificate of Need

Program, the Department would likely reject applications for plan reviews, new licenses, and applications for Medicaid or Medicare certifications for affected facilities until the expiration of the moratorium on June 30, 2014. Limiting the number of licensed nursing facility beds that may be added to the system should, by limiting growth in allowable fixed cost that may be reimbursed under the rate-setting rules, result in some long-term savings to the Medicaid program.

(Revised) Additional Medicaid Provisions: The bill would: (1) allow for FSSA to promulgate rules for federal programs using emergency rule-making provisions (e.g., Medicaid, TANF, SNAP (Food Stamps), Vocational Rehabilitation, Community Mental Health Services Block Grant, etc.), (2) apply for and implement waivers to implement provisions of federal health care reform, (3) eliminate provisions relating to asset depletion for Medicaid eligibility, (4) allow for collection of improper payments, and (5) apply for and implement federal block grant funding for Medicaid.

The bill also eliminates or limits certain services for specified populations resulting in state savings of $16.6 M for each year of the biennium. This total is comprised of the following provisions.

The bill would eliminate Medicaid coverage for chiropractic services resulting in a reported state savings of $0.9 M for each year of the biennium. The bill eliminates the provision of dental services for adults resulting in state savings of $14.9 M for each year of the biennium. Dental services would remain available to recipients who are less than 21 years of age. The bill would limit the provision of podiatric services to individuals under the age of 21 or over the age of 65. Any Medicaid recipient with a diagnosis of diabetes would also be eligible for podiatric services. The limitation on podiatric services will have no impact on state Medicaid expenditures.

The bill also provides that Medicaid will not reimburse nursing facilities to hold or reserve a bed when a recipient is out of the facility for care in a hospital or for other therapeutic reasons. It voids a Medicaid rule that provides for this reimbursement and requires OMPP to submit a State Plan amendment to implement the provision. This provision is expected to result in state savings of $0.8 M annually.

Medicaid and CHIP mental health drug provisions specify the restrictions that may be placed on mental health-related prescription drugs through the Drug Utilization Board and the Preferred Drug List (PDL). This provision is estimated to result in savings of $0.5 M annually.

The bill also reduces the income eligibility for the CHIP from 300% of the federal poverty level (FPL) to 250%, resulting in cost avoidance of $0.6 M in FY 2012 and $1.3 M in FY 2013 by eliminating the need to implement this expansion of eligibility. No children currently in CHIP would lose coverage as a result of this provision - currently, the income eligibility for the CHIP program is 250% of FPL. OMPP was approved by CMS in January 2010, to expand the eligibility to the legislatively mandated 300% level and had planned to implement the expansion July 1, 2011. The expansion was estimated to cover an additional 146 children each month for two years resulting in 3,500 children receiving CHIP coverage. The income eligibility would impact a family of four with annual income over $55,125 but less than $66,150.

ISDH and Pulse Oximetry Screening- The bill requires that beginning January 1, 2012, infants must be given a pulse oximetry screening examination to detect low oxygen levels. The bill also requires the ISDH to develop procedures and protocols for the testing and to report specified information to the Legislative Council by October 31, 2011. The total fiscal impact of adding an additional screen to the Newborn Screening Program is indeterminate. However, the ISDH has reported an additional annual cost of $210,400 to add the additional screening to the panel currently included within the Newborn Screening Program. The

Medicaid Program has reported that additional cost is anticipated to be minimal if the cost of the test is incorporated within the DRG payment for screening occurring within a hospital setting. There may be potential impacts on state and local costs associated with employee health benefit plans.

ICHIA Premium Rates- The ICHIA provisions in this bill could reduce expenses by a total of $6.15 M annually.

<u>Miscellaneous State Provisions</u>

Bonding Requirements- This bill outlines certain conditions which must be met before the state moral obligations may be used by the Indiana Bond Bank to ensure adequacy of debt service reserve funds. These conditions include a written finding that revenues available to the qualified entity exceed by at least 20% of the required annual debt service. If financing is to be supported by revenue from fees, user charges, or property taxes, the qualified entity agrees to increase the revenue source or pledge sufficient property taxes, user fees, hook up fees, or any other local revenues to satisfy the reserve fund requirements before using the moral obligation of the state. Also funds available to the qualified entity through state distributions may be withheld to recover any funds provided by the state. The bill also provides that certain information must be provided to the State Budget Committee and the State Budget Agency if a reserve fund is to be created under these provisions.

The bill also restricts the length of terms for bonds issued by the Port Authority after June 30, 2011, to a maximum of 25 years.

Tobacco Use Prevention and Cessation Executive Board- The bill eliminates the Indiana Tobacco Use Prevention and Cessation Executive Board and transfers the appropriations, powers, and duties of the Executive Board to the Indiana State Department of Health. This provision should result in minor savings to the state in the amount of the operating costs incurred for meetings of the board. No duties or responsibilities are diminished by the transfer, and operating costs will transfer to the ISDH. The bill contains total annual appropriations for the Executive Board of $5.1 M, of which $1.7 M is budgeted for personal services, equipment, and operations. Some additional unknown level of savings may be achieved as a result of combining administrative duties.

GPS Tracking- This provision specifies that GPS tracking of sexually violent predators and sex and violent offenders as a condition of parole is subject to the amount appropriated to the Department of Correction for its monitoring program. Currently, DOC estimates the cost of monitoring sex offenders as $5 M in 2012 and $6.3 M in 2013.

Study Topics- Interim Study Committee on Employment Issues: This bill establishes the Interim Study Committee on Employment Issues, but does not specify the composition of the committee. The committee is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of $9,500 per interim for committees with fewer than 16 members and $16,500 per interim for committees with 16 members or more. The committee is to issue a final report before November 1, 2011, to the Legislative Council concerning findings and recommendations about laws related to (1) whether an employee should be required to join an employee organization as a condition of employment and (2) project labor agreements.

Studies: The bill requires the Criminal Justice Institute to study the use of diversion and deferral programs and plea bargaining in Indiana. Based on the experience of the Division of State Court Administration in contracting for past studies of courts, these studies may cost between $30,000 and $60,000 based on hiring outside consultants.

The bill also assigns various studies to existing study committees and executive branch agencies and should be accomplished within existing levels of appropriations.

(Revised) *E-Verify Contracting Provisions:* Requiring contracted employers to verify the work eligibility status of employees using the federal E-Verify system may impact state expenditures on contracts if submitted contracted costs increase to reflect any change in hiring practices and/or wages paid by contractors. The impact on contracting expenses to the state is indeterminable.

Local Taxes

Supplemental Distributions- This bill requires the State Budget Agency to publish statewide estimates of the local option income tax (CAGIT, COIT, and CEDIT) certified distributions, specifying the amount of certified distributions attributable to the additional tax rates adopted for property tax relief, public safety, and to freeze property tax levies. The State Budget Agency should be able to carry out this provision within their existing resources.

Explanation of State Revenues: The bill has the following provisions.

Various Tax Provisions

Internal Revenue Code Update- The bill updates the reference to the Internal Revenue Code to incorporate federal changes made up to January 1, 2011. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2010. The update would include changes as a result of the following federal acts: (1) The *Small Business Jobs Act of 2010* (P. L. 111-240), signed into law on September 27, 2010; and (2) The *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312), signed into law on December 17, 2010. It is estimated that the fiscal impact from the bill will begin in FY 2011. The estimated fiscal impact of the bill and the federal acts generating the fiscal impact are summarized in the table below.

Provisions (Revenue impact in millions $)	FY 2011	FY 2012	FY 2013
Small Business Jobs Act	(1.0)	(0.4)	0.0
Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act	(2.3)	(3.6)	(2.6)
Total Impact on State Revenue	**(3.3)**	**(4.0)**	**(2.6)**

The bill decouples from the temporary extension of the following provisions for 2011 and 2012 under the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010*:

(1) The $5,000 increase in the federal earned income tax credit phaseout income level for joint filers.
(2) The increase from 40% to 45% federal earned income tax credit percentage for filers with three or more children.
(3) The exclusion from federal AGI of certain employer-provided educational assistance.

The bill also decouples from the temporary extension of the following provisions for 2010 and 2011 under the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010*:

(1) The above-the-line deduction from federal AGI for higher education tuition and fees.
(2) Special expensing provisions allowing certain environmental remediation expenditures to be deducted in the year the expenditures are paid or incurred.
(3) The total exclusion of qualified charitable distributions of IRA funds.
(4) The exclusion from corporate income for certain foreign personal holding company income.
(5) Special expensing provisions allowing 15-year recovery period for certain leasehold improvement property.

Cigarette Tax Revenues- The bill provides that 5.74% of the revenues collected from the Cigarette Tax are to be deposited into the state General Fund rather than the State Retiree Health Benefit Trust Fund during the biennium ending June 30, 2013. This would increase revenues to the state General Fund by $27.1 M in FY 2012 and $26.8 M in FY 2013, and the amount distributed to the State Retiree Health Benefit Trust Fund will be reduced by the same amount during this period. The distribution returns to the current percentages beginning in FY 2014. This bill also strikes a line item in current statue that provides that 2.46% of the Cigarette Tax revenue must be deposited in the General Fund for medicaid reimbursements and increases the General Fund distribution by the same percentage. This provision would have no impact on the total amount of revenue distributed to the General Fund.

Sales and Use Tax Provisions- This bill requires the State Budget Agency before September 1st of each year to certify to the Budget Committee whether any excess of use taxes has been collected from remote sellers and the amount of excess if any. The bill also provides that any excess amount collected is to be deposited in the General Fund to be allotted to the State Student Assistance Commission to be distributed to eligible students as financial assistance for children of veterans under IC 21-14-4.

This bill also clarifies that the Council of State Governments (CSG) is exempt from gross retail and use taxes for transactions during the Midwest Legislative Conference in July 2011.

Horse Racing and Gaming Provisions

Slot Machine Wagering Tax- The bill reduces the taxable base for the state slot machine wagering tax by 1% beginning in FY 2013. Under the bill, the tax would be based on 99% of the slot machine adjusted gross receipts (AGR) beginning in FY 2013, instead of the current 100% AGR basis. It is estimated that this reduction in the tax base will reduce state General Fund revenue from the slot machine wagering tax by about $1.4 M in FY 2013. The revenue loss could grow by about 2% annually thereafter. The revenue loss estimate is based on the April 15, 2011, Revenue Technical Committee forecast of AGR from gaming at the state's two racinos FY 2013.

Social Services

Family and Social Services (FSSA) Provisions-

First Steps Program Changes- FSSA estimates that with the implementation of capitated rates, state revenue from TPL payments for First Steps services will increase by $5 M per year.

FSSA reports that the provision to bill only one child per household is expected to decrease revenue to the First Steps Program by approximately $100,000 per year.

Medicaid Provisions-

Extension of the QAF: Extending the authorization for the collection of the QAF and maximizing the amount to be collected from July 31, 2011, to June 30, 2014, would authorize an estimated annual collection of about $153.2 M for FY 2012 and $156.2 M for FY 2013 and FY 2014 if nursing facility days remain constant. The ultimate QAF collections would depend on federal actions. Extension of the QAF would allow for the state to continue receiving $19.6 M in funding to be used for the Medicaid Program. The provision allowing for the maximization of the amount the QAF collects and the change in the distribution of funds will result in additional state dollars for Medicaid of $14.0 M for FY 2012 and $23.3 M for each of FY 2013 and FY 2014. The total annual collections and the state share of the collections from both provisions are estimated as follows.

		State Benefit From		
Fiscal Year	Total QAF Collections	Extension of QAF	Maximization	Total Collections
2006	$ 327.4 M	$ 62.7 M		
2007	$ 108.4 M	$ 21.7 M		
2008	$ 103.4 M	$ 20.7 M		
2009	$ 96.5 M	$ 19.3 M	$ 14.5 M @	$ 33.8 M#
2010	$ 98.8 M	$ 19.8 M	$ 19.8 M @	$ 39.6 M
2011*	$ 98.2 M	$ 19.6 M	$ 9.8 M @	$ 29.4 M#
2012*	$ 153.2 M	$ 19.6 M	$ 14.0 M	$ 33.6 M
2013*	$ 156.2 M	$ 19.6 M	$ 23.3 M	$ 42.9 M
2014*	$156.2 M	$ 19.6 M	$ 23.3 M	$ 42.9 M
* Estimated; assumes nursing facility days remain constant.				
@ Estimated temporary increase in state share for ARRA stimulus.				
# Temporary increase in state share is for less than a full year.				

Hospital Assessment Fee: The bill authorizes a hospital assessment fee for a period of two years beginning July 1, 2011, and ending June 30, 2013. The bill would suspend the current hospital supplemental distribution programs during the term of the assessment fee and specify alternate Disproportionate Share Hospital (DSH) program payments for the term of the fee. The fee would be set at the level necessary: (1) to reimburse Medicaid services on parity with Medicare to the extent possible; (2) to replace state-operated facility DSH distributions currently made to the state (approximately $60 M); and (3) to provide some level of additional funding to the state for Medicaid expenditures. It is currently estimated that approximately $400 M would be necessary to be raised in fees to accomplish these purposes. At that fee level, the state would leverage roughly an additional $800 M in federal funds. (Total expenditure would be about $1.2 B.)

If the fee raises $400 M in funds, the state would be allocated 26% to use for other Medicaid purposes, and 76% would be required to be used for hospital purposes. The state share would be expected to result in about $104 M. Of this amount, $60 M to $70 M would be necessary to replace the state DSH funding for state-operated facilities; the balance would be used to provide Medicaid services - potentially replacing state general funds.

The bill requires the Board of the Indiana Hospital Association to review and approve certain actions of OMPP. It also specifies that if the fee is not approved by CMS, if the Board does not approve certain actions of the OMPP, or on an appellate court order, the fee would cease to be collected.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 34% for most services. Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 66%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Federal ARRA provides that enhanced Medicaid stimulus funding will be available to the state until December 31, 2010. An amendment to the ARRA subsequently extended phased-down stimulus funding until June 30, 2011.

Nursing Facility Bed Certificate of Need Program: Depending on the number of applications that might now be considered, ISDH plan review or license fee revenues could be collected for any new beds or facilities due to the certificate of need program. A nursing facility pays a $200 fee for the first 50 additional beds and $10 for each bed in excess of 50. Plan review fees are $150 for nursing facilities. License and plan review fee revenue is deposited in the General Fund. This bill does not affect the renewal of existing licenses.

Courts

Automated Record Keeping Fee- This provision will increase revenue to the State User Fee Fund by $2.22 M in both 2012 and 2013, but would also cause a revenue loss of $400,000 in 2014, 2015, and other years outside of the 2012 and 2013 fiscal years.

	2012	2013	2014	2015
Revenue (in $M) Based on $7 Fee for 2012 and 2013	$7.00	$7.00	$4.00	$4.00
Revenue ($M) Based on $4 Fee	$4.00	$4.00	$4.00	$4.00
Added Revenue From Fee Changes	$3.00	$3.00	$0.00	$0.00
Transfer from Counties with No Oddysey	$0.78	$0.78	$0.40	$0.40
Change in Revenue to State User Fee Fund	$2.22	$2.22	-$0.40	-$0.40

Public Defense Administration Fee- The clerk of the court is to collect the public defense administration fee in the following amounts: $3 before July 1, 2011, and $5 after June 30, 2011. This additional fee is expected to increase fee revenue by $2 M annually, which is deposited into the state General Fund. It increases the semiannual amount that the Auditor of State transfers for deposit into the Public Defense Fund from $2.7 M to $3.7 M beginning July 1, 2011.

Kinship Guardianship Assistance- This change will allow the Department of Child Services the opportunity to draw down additional federal IV-E funds as provided by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. As reported by the DCS, any impact to increasing federal funds the state receives is indeterminable.

Miscellaneous Provisions

Quorum Breaking- This bill creates a civil penalty for any member of the General Assembly, who with the intent to defeat, delay, or obstruct legislative action, is absent for more than three days resulting in the member's body being unable to form a quorum. This does not apply to a member who has been excused by the presiding officer or has a verified illness or injury by a licensed physician. The bill allows a citizen who resides in the member's district to bring a cause of action against the absent member and may be awarded attorney's fees and court costs. A civil penalty of $1,000 per day may be imposed against a legislative member who violates this provision. Any civil penalties would be deposited in the General Fund.

Explanation of Local Expenditures: The bill has the following provisions.

K-12 Education

Charter Schools- Conversion Charter School Transfer: The bill allows a school corporation to transfer money from their corporation to a conversion charter school created by the school corporation. The amount of the transfer is limited to the difference in tuition support funding per student between the corporation and the conversion charter times the charter school's ADM. There is currently one conversion charter school in Indiana, Signature School, with Evansville-Vanderburgh School Corporation as the sponsor. Under the school formula in the bill, Evansville-Vanderburgh School Corporation will receive about $6,289 for CY 2012 and $6,435 for CY 2013 in tuition support per student, and Signature School will receive about $5,385 for CY 2012 and $5,290 for CY 2013. Signature School is projected to have an ADM of 338 for CY 2012 and 350 for CY 2013. The maximum transfer is about $305,552 for CY 2012 and $400,750 for CY 2013.

Miscellaneous K-12 Provisions- Special Education Grants: The bill could redirect school corporation expenditures if they currently spend less than the proportionate share of its state special education grant on grants to parentally placed nonpublic school students with disabilities. The current grant is $8,350 for a student with a severe disability, $2,265 for a student with a moderate disability, $533 for a student with communication disability, $533 for a homeland student, and $2,750 for a preschool student with a disability. This provision does not apply to charter schools. Under this bill, this provision would be implemented on July 1, 2011, instead of January 1, 2011. The impact would be delayed by six months.

The bill also extends the deferral of payment of principal and interest by the Brown County School Corporation on a loan from the Rainy Day Fund. The deferral would last through FY 2013.

(Revised) *Collective Bargaining:* The bill clarifies when collective bargaining may begin in the second year of a state budget biennium. It also clarifies that the Department of Education has to provide schools with school formula revenue estimates by August 1 of the first year of a state budget biennium. The bill clarifies the factfinding process and requires that the process must culminate in the factfinder imposing contract terms by selecting one party's last best offer. The Education Employment Relations Board could, after receiving the findings and recommendations of the fact finder, make additional findings and recommendations. The impact of the changes should be minor.

Local Taxes

Allen County Supplemental Food and Beverage Tax- This provision would allow the Allen County Capital Improvement Board of Managers to use excess revenue from the Supplemental Coliseum Improvement Fund for other capital improvements, certain economic development projects that could be funded via CEDIT, and not more than $100,000 annually for investigation into new capital improvement or economic development projects. The provision could extend the sunset of the food and beverage tax.

Under current law, the tax is set to expire two years after the retirement of debt from the Coliseum improvement. As of December 31, 2011, Allen County had approximately $27.3 M left in unpaid debt for improvements made to the Coliseum. The current Coliseum repayment schedule would leave the tax in place through 2028. If the retirement of capital improvement debt incurred by the board extended past the retirement of the Coliseum debt, the bill would allow the tax expiration date to extend past 2028. Tax collections have averaged $5.3 M per year between FY 2006 and FY 2010.

Local Units

(Revised) *Thirteenth Check Provisions*- The cost of providing a 13th check for PERF is shown in the table below.

13th Check	Local
Change in Unfunded Accrued Liability	$13.8 M
Change in Annual Funding	$1.
Change in Annual Funding as % of Pay	0.03%

Explanation of Local Revenues: The bill has the following provisions.

K-12 Education

School Formula- See *Explanation of State Expenditures*.

School Debt Levies- Under this provision, certain school corporations would be permitted to transfer certain amounts from their debt service levies to their capital projects, transportation, and school bus replacement funds. Eligible school corporations would include corporations that have circuit breaker losses from all funds that are at least 30% of the levies in the nondebt funds (i.e., capital projects, transportation, school bus replacement, and racial balance). Eligible schools would be able to refinance existing bonds for a period not exceeding 10 years past the original term. The difference between the old debt service levy and the levy for the refinanced bond (or 0 for a retired bond) is the incremental levy amount and may be transferred, up to the amount of the circuit breaker losses, to the other funds. The incremental levy amount would be exempt from the circuit breaker caps. In CY 2011, 31 school corporations had circuit breaker losses that were at least 30% of nondebt levies. These school corporations had total losses of $106 M. The fiscal impact would depend on actions taken by eligible school corporations.

Higher Education

Scholarship Grants and Awards Programs- Mitch Daniels Early Graduation Scholarships: Individual schools would receive a reduction in tuition support revenue based on the number of their students who take advantage of the scholarship.

Various Tax Provisions

Internal Revenue Code Update- The IRC update could potentially affect taxable income of individual taxpayers. The impact on counties imposing local option income taxes is indeterminable and would vary.

Courts

Automated Record Keeping Fee- Counties in which circuit and superior courts do not solely rely on the Odyssey Case Management System could gain between $648,000 and $900,000. This added revenue would be deposited into the County Drug Free Community Fund.

Local Taxes

Supplemental Distributions- This bill changes the method for determining supplemental distributions for counties imposing local option income taxes. It specifies that when a county's LOIT account exceeds 150% of the certified distributions to be made in the ensuing year, then the State Budget Agency may make supplemental distributions to appropriate counties. Current statute provides that supplemental distributions must be made when a sufficient balance exists in the LOIT accounts that exceeds the amount required for certified distributions to the counties in the ensuing year. The bill also specifies that the amount of supplemental distributions attributable to additional rates must be used for those purposes, and that these amounts are not required to be deposited in the unit's rainy day fund.

Marion County Tax Levy: This provision would allow Marion County to impose an additional property tax levy in CY 2012 only. The levy increase would be limited to the difference between (1) the amount paid for child services after 2008 and (2) the December 31, 2008, unencumbered balance in the county's family and children's fund plus delinquent tax payments that would have been deposited into the fund if it had not been repealed. Property taxes collected from this levy would be deposited into the county general fund.

The potential levy increase is about $5.8 M in CY 2012. The levy increase would increase tax rates and could possibly increase circuit breaker losses for taxing all units in the county in areas where the circuit breakers have been triggered.

(Revised) *Allen County Township Maximum Levy Adjustments*- This provision would permit two townships – Washington and Lafayette Townships in Allen County – to petition the DLGF for a maximum levy increase to be effective for all years beginning with CY 2012. The increase would be limited to the difference between (1) the township's maximum levy in the year in which it used cash balances to reduce the levy, and (2) the township's 2011 maximum levy. If petitioned, the DLGF would be required to make the adjustment.

The potential increase for Washington Township is unclear under this provision. Lafayette Township would have a potential maximum increase of $44,801. Levy increases, if granted, would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the same taxing districts as the townships and where the circuit breakers have been triggered.

(Revised) *Fairfield Township Maximum Levy Adjustment*- This provision would permit Fairfield Township in Tippecanoe County to request that the DLGF make an adjustment to the township's maximum levy. The amount of the adjustment may not exceed $130,000. If requested, the DLGF would be required to make the adjustment for 2012 and up to three additional years. The levy increase would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the same taxing districts as Fairfield Township and where the circuit breakers have been triggered.

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Alan Gossard, 317-233-3546; Diane Powers, 317-232-9853.